



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHAUNA NOEL, et al.,

Plaintiffs,

-against-

CITY OF NEW YORK,

Defendant.

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KATHARINE H. PARKER, UNITED STATES MAGISTRATE JUDGE

OPINION AND ORDER

15-CV-05236 (LTS) (KHP)

The Court is in receipt of Defendant’s January 11, 2019 letter seeking reconsideration and/or clarification of the Court’s Opinion and Order (Doc. No. 660) ruling on Plaintiffs’ challenge to privilege designations on 500 documents in Defendant’s privilege log (the “December Order”). Defendant raises three purported errors with the December Order, believed to be administrative in nature, each of which the Court addresses below.

Defendant first notes that the Court, in its December Order, upheld work product protection and deliberative process privilege for Doc. Nos. 289, 291, and 292 on Defendant’s privilege log, where Defendant had asserted only the attorney-client and deliberative process privileges. The Court clarifies that these three documents should have been marked “AC & DPP” rather than “WP & DPP” in the spreadsheet annexed to the December Order.

Defendant next notes that the Court upheld attorney-client privilege for Doc. Nos. 478, 480, and 481 where Defendant ultimately did not assert the attorney-client privilege. The Court clarifies that this too was an administrative error and that these three documents should be produced to Plaintiffs because they are not protected by the deliberative process privilege.

These documents are annotated and/or revised drafts of a “Request for Proposals” for the New York City Human Resources Administration’s (“HRA”) Anti-Harassment Tenant Protection Program. As explained in the December Order, a document may be protected by the deliberative process privilege only if it is both pre-decisional and deliberative. *Marisol A. v. Giuliani*, No. 95-cv-10533 (RJW), 1998 WL 132810, at *6 (S.D.N.Y. Mar. 23, 1998). The drafts at issue here are not pre-decisional. Rather, the “Request for Proposals” was intended to aid in the implementation of a program that the City already had decided to undertake.

Finally, Defendant seeks to redact certain information that it claims is non-responsive and privileged from the following documents that the Court held in its December Order were not privileged and subject to disclosure: 49, 57, 64, and 350. Defendant’s request is **DENIED** except that these documents may be designated “Confidential” pursuant to the Protective Order in place in this action.

SO ORDERED.

Dated: January 23, 2019
New York, New York



KATHARINE H. PARKER
United States Magistrate Judge